

September 1, 2005

AGAR ADVISORY

**UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF PROCUREMENT AND PROPERTY MANAGEMENT
AGAR ADVISORY NO. 78**

CLASS JUSTIFICATION AND APPROVAL FOR OTHER THAN FULL AND OPEN COMPETITION

INTRODUCTION: This Agriculture Acquisition Regulation (AGAR) Advisory has been prepared to provide information on a class justification and approval for other than full and open competition in support of the emergency disaster declarations for Alabama, Florida, Louisiana, and Mississippi.

SUMMARY: The Department of Agriculture (USDA) has prepared a class justification and approval for other than full and open competition under the emergency disaster declarations for Alabama, Florida, Louisiana, and Mississippi. This is available for use by any USDA contracting activity in support of disaster recovery from the impact of Hurricane Katrina on the four above mentioned states. This temporary procurement authority shall only apply to critical facilities and operations that are directly impacted by Hurricane Katrina, and is intended solely for their restoration of emergency operations to fulfill Agency short term essential functions. It does not apply to long term or permanent restoration activities.

SPECIFIC ISSUES:

President George W. Bush signed a declaration of emergency disaster aid for Louisiana on August 27, 2005 and for Alabama, Florida, and Mississippi on August 28, 2005.

These emergency disaster declarations have given rise to a continuing urgent need for supplies, services and temporary space of an unusual and compelling nature to aid in recovery from this incident of national significance.

In responding to this disaster any USDA contracting activity will need to respond with appropriately accelerated procedures. To empower and accelerate the acquisition process supporting these emergency declarations, the attached justification and approval has been prepared.

If temporary space is needed to house or support mission critical program, the USDA contracting activity should contact (via telephone or email) the appropriate Regional Office of the General Services Administration to determine if there is any space available under federal control. If no space is available, the USDA contracting activity can procure temporary space using purchase card procedures identified in Departmental Regulation 5013-6, dated February 13, 2003 and the APC/LAPC Purchase Card Program Guide dated September 2000. The temporary space performance period cannot exceed 180 days.

The attachment is provided in PDF format to make it available for inclusion in contract files.

If you have questions about this advisory, please contact Todd Repass, Jr. by telephone at (202) 690-1060, by fax at (202) 720-8972, or by email to todd.repass@USDA.gov.

This advisory is available on the USDA procurement homepage at

<http://www.usda.gov/procurement/policy/advisories.html>.

EXPIRATION DATE: This Advisory is effective until canceled.

U. S. DEPARTMENT OF AGRICULTURE (USDA)
CLASS JUSTIFICATION AND APPROVAL
FOR OTHER THAN FULL AND OPEN COMPETITION

Federal law (41 U.S.C. 253(c)) authorizes under certain conditions, including unusual and compelling urgencies, contracting without providing for full and open competition. President George W. Bush signed an emergency disaster declaration for Louisiana on August 27, 2005 and for Alabama, Florida, and Mississippi on August 28, 2005 in preparation for and recovery from the impacts of Hurricane Katrina.

The disaster recovery efforts from the devastating impacts of Hurricane Katrina have given rise to a continuing urgent need for supplies, services and temporary space of an unusual and compelling nature. Numerous USDA facilities have been destroyed or damaged and may be uninhabitable resulting in employees having to relocate to alternate work sites. This requires complete outfitting of the temporary locations in the form of real and personal property in order for the employees to perform the Department's essential functions in support of the American public and other Federal agencies. Of significant importance in terms of a national asset is the National Finance Center that services numerous Federal agencies in financial transactions and is one of four designated centers that provide payroll services to over 600,000 federal employees. Additionally, numerous facilities designated as mission critical and manage programs essential to the Department's mission and the nation's food supply must be relocated and brought back to an operational level.

Therefore;

For acquisitions made by any USDA contracting activity directly as a result of USDA's activities in response to the Presidential emergency declarations of August 27 and August 28, and support of mission critical programs impacted by the Hurricane Katrina disaster; and

Based on 41 U.S.C. 253(c)(2), further described in Federal Acquisition Regulation 6.302-2, Unusual and Compelling Urgency, I, as USDA Senior Procurement Executive, waive:

- (1) The requirement for publication through the Governmentwide Point of Entry (FAR 5.2); and
- (2) The requirements for full and open competition applicable to the necessary acquisitions.

It is anticipated that actions taken under this approval will be of such unusual and compelling urgency that:

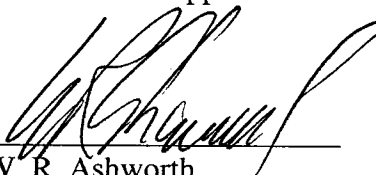
- (1) The dollar value of each acquisition and the total amount of this class approval cannot be forecast;
- (2) The nature of the emergency as opposed to a contractor's unique qualifications will require the use of this approval;
- (3) The Contracting Officer will not have access to (both in time and via communication or transportation restraints) sufficient numbers of vendors to achieve normal competition;
- (4) Market research, beyond locating the most available responsible vendors, will require time not available in the circumstances;
- (5) The Contracting Officer's signature on the acquisition and certification above will evidence that the price is determined to be fair and reasonable under these circumstances; and

In order for these waivers to be used, the Contracting Officer need not add additional documentation to the file beyond:

- (1) Before the action or as soon as possible thereafter, place a copy of this approval in the acquisition file;
- (2) Place with this approval in the file (a) a short description of the action, (b) a short description of the supplies or services, (c) the estimated (or final) value of the action, and (d) a list of any vendor expressing an interest in writing in the acquisition; and
- (3) Certify that the descriptions immediately above are accurate representations to the best of their knowledge.

This authority shall only apply to critical facilities and operations that are directly impacted by Hurricane Katrina, and is intended for their restoration of emergency operations to fulfill Agency short term, essential functions. It does not apply to long term or permanent restoration activities. This temporary procurement authority shall not exceed 180 calendar days from the effective date below unless revised by the Senior Procurement Executive.

This justification and approval is accurate and complete to the best of my knowledge.

Signed: 
W. R. Ashworth
Senior Procurement Executive

Effective Date: 9-1-05